

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
March 23, 2004**

PLACE: Room 206  
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Spain, Forman, Conze, Bigelow, Kenny

STAFF ATTENDING: Ginsberg, Keating

---

Chairman Damanti read the following agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #125-B, Flood Damage Prevention Application #123-B, John B. Ward, 32 Beach Drive.** Proposal to construct additions and alterations to the existing residence and perform related site development activities within regulated areas. The subject property is located on the west side of Beach Drive approximately 225 feet south of its intersection with Outlook Drive, and is shown on Tax Assessor's Map #53 as Lot #6 in the R-1/2 Zone. *PUBLIC HEARING OPENED JANUARY 27, 2004.*

Jeff McDougal of William Seymour & Associates, Land Surveyors, explained that the Public Hearing had been continued so that the applicant could secure the necessary permit from the Environmental Protection Commission. They have since obtained that permit and it is referred to as EPC Permit No. 6-2004. Mr. McDougal explained that most of the site is in the Flood Hazard Zone and that the proposed additions and alterations to the structure have been designed to withstand the flood forces. Flooding in the area is caused by the rise in the level of Holly Pond. The crawl space of the foundation includes the installation of vents to allow flood waters to equalize the pressure on the inside of the walls with the flood waters on the outside of the walls. Mr. McDougal said that all of the mechanical equipment in the basement will be relocated so that it would be located above the expected flood level.

Mr. McDougal reviewed the plans of the proposed work and noted that there is no regrading of the site. He also said that a drainage structure will be installed at the low point in the driveway so that water will be directed into a storm water drainage gallery rather than being discharged directly into Holly Pond. Commission members noted that the building coverage is more than 19% of the land area but less than 20%, which is the maximum allowed by the Regulations. Mr. McDougal said that they had prepared an engineering report regarding the storm water run off. Mr. Roberge prepared the report and was available to answer any questions. The report states that there will be a zero increase in the peak run off discharge. This has been accomplished by the use of the galleries to accommodate the additional storm water run off.

There were no questions or comments from the public.

The following motion was made: that the Commission close the Public Hearing regarding this matter. The motion was made by Mr. Conze, seconded by Mr. Kenny and unanimously approved.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 23, 2004  
PAGE 2

Chairman Damanti read the following agenda item:

**Continuation of Public Hearing regarding Special Permit Application #221-D, Celco Partnership d/b/a Verizon Wireless, 4 Tower Drive.** Proposing to install wireless telecommunications antennas (twelve panel antennas) on top of the concrete water tank within a new “cap” on the existing concrete shell, and to install an equipment shelter within the existing tank housing. The subject property is located on the south side of Tower Drive approximately 250 feet east of its intersection with Mansfield Avenue, and is shown on Tax Assessor’s Map #1 as Lot #136, R-2 Zone. *PUBLIC HEARING OPENED FEBRUARY 24, 2004.*

Chairman Damanti said that the attorney representing the neighbors had asked the Planning & Zoning Commission to continue the Public Hearing so that they (the neighbors) could hire a professional appraiser to analyze the impact on property values due to the negative perceptions that people have regarding the installation of antennas and cellular phone service facilities. The Commission had agreed to continue the Public Hearing and subsequent to that, the attorney advised the Commission in writing that the neighbors would not be hiring an appraiser and that the attorney would not be presenting any information at the hearing. Chairman Damanti noted that the attorney was not present at the hearing and that his clients were also not present.

Kenneth Baldwin represented the applicant and explained that he had two issues that he wished to review with the Commission. He introduced John Toll, an R.F. Engineer with Verizon. Mr. Baldwin distributed colored print-outs showing the effective broadcast area of the proposed antenna in the Tower Road facility and another handout showing the range of other Verizon antennas in the area without the Tower Drive facility. Mr. Toll explained that the green colored areas have a strong signal with a reading of Neg 85 or less. Yellow colored areas have a Neg reading of 86 to 90, red areas have a Neg reading of 91 to 95 and the blue or purple areas have a Neg reading of 96 to 100. Mr. Toll said that the antenna at the Waveny Park water tank (New Canaan south) is handling too much call volume at this time and the Tower Drive antenna will handle some of that excess as well as providing better service in Darien. Mr. Bigelow asked how changes in technology will impact the size or strength or power output of the antennas. Mr. Toll said that Verizon is constantly keeping up with changes but, usually those changes are for smaller and more efficient units that have more capacity with less equipment. Usage of the cellular phone system and similar services continues to grow and there is a need for more capacity within the Verizon system. He said that the proposed antennas at the Tower Drive site would be characterized as a capacity site rather than primarily a coverage site.

In response to questions about whether they had investigated other alternative locations along the Merritt Parkway or elsewhere in town, Mr. Toll said that a facility closer to the Parkway would be adequate from a capacity point-of-view, but not necessarily from a coverage perspective. He said that placement of the antenna is as important as the size of the facility. Ken Baldwin said that they have constantly explored options of having tower facilities on state properties such as within rest areas or service garages along the Merritt Parkway and Turnpike but that the state policy is not to permit such antennas on state properties. He said that they have not fully explored every alternative along the Merritt Parkway because it is better to use existing structures rather than creating a new tower. He said that putting an additional antenna facility in close proximity to the New Canaan South facility is not appropriate. He said that the Merritt Parkway is classified as a scenic by-way

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 23, 2004  
PAGE 3

with some historic and cultural significance. Installing a tower on the state's right-of-way is not a practical alternative. Mr. Baldwin said that new towers are even more difficult to get approved than placing antennas within existing tower structures. He said that they will work with the town to make sure that the painting and final treatment of the tower is satisfactory to the town and to the neighbors.

Mr. Kenny asked if the water company tower was not available, then what and where are the second and third choices that Verizon would pursue. Mr. Baldwin said that no other sites have been selected as alternatives to meet the needs in this area. If the water company tower is not usable, then a new tower would be needed and Verizon would start the difficult task of dealing with individual property owners and neighborhoods and the town and the Siting Council regarding the installation of a new tower. He said that they have not pursued that idea because the Darien Zoning Regulations encourage the use of existing towers rather than the creation of new towers.

Mrs. Forman said that it appears that access to the site is not monitored closely and that the enormous amount of activity is disruptive to the neighborhood. Mr. Baldwin said that, if approved, Verizon will work closely with the staff to avoid any reoccurrence of the contractor problems that existed with the previous installations. He said that when the Commission and neighbors expressed problems with the site at the first Public Hearing, they, Verizon, contacted the water company and the contractor and made sure that the site was cleaned up prior to the next Public Hearing. He said that they would work quickly to respond to any concerns expressed by the staff. In response to a question, he said that they would be glad to work with a responsible representative of the neighborhood to resolve any issues that the neighbors might have during the construction process. Mr. Baldwin said that they would set up a contact person to deal with the neighbors and that once the antenna is operational, the site only requires a one hour visit per month to perform routine maintenance. Unless there is some major problem at the site, there would be no need for any other Verizon employee to come to the site more than once a month.

Mrs. Forman said that the Aquarion Water Company needs to take more responsibility for activities on its site and for the constant maintenance and security of its site. Mr. Baldwin said that he will be glad to provide the Commission and neighbors with the contact person at Aquarion so that any appropriate concerns can be responded to in a timely manner. Mr. Kenny said that present and future owners in the neighborhood are not likely to contact the appropriate person at Aquarion. He said that they are more likely to contact the customer service department at Aquarion and he questioned Mr. Baldwin if the customer service department at Aquarion would be able to direct neighbors to the appropriate engineering personnel in the water company.

Nancy Hargreaves of Tower Drive submitted photographs of the site and read a letter aloud. She and the other neighbors had signed the letter objecting to the proposal. She said that the Commission should deny the application and Verizon will have to find another location.

Mr. LaVecchia of 444 Mansfield Avenue submitted a letter of objection. He said that there have been many problems with Aquarion in his four years of residency. For example, they cut down a tree and left the debris on the site despite many phone calls. In another instance, an antenna was installed without permits or approval and Aquarion has not returned phone calls regarding the antenna. Mr. LaVecchia questioned what would happen to the height of the tower if the capacity within the existing tower structure is maximized. He wondered if the argument could be made that

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 23, 2004  
PAGE 4

the tower needs to be extended or made taller to accommodate more service providers or to provide greater capacity. He noted that this antenna facility is not primarily for coverage (which is mandated by law) but it is for capacity (which is not mandated by law).

Bob George of Stephanie Lane said that a cell phone is now a necessity of life in this part of the country. His home happens to be in a dead zone and therefore, he cannot contact his patients or respond in a timely manner. He said that the town should set up regulations that allow for antennas and then make sure that the companies stick to the rules. He said that coverage is an issue in his neighborhood and the taxpayers almost have a right to expect cellular phone service in this day and age.

Mr. Baldwin said that the Federal Telecommunications Act of 1996 and the Federal Communications Commission (FCC) have determined that people have a right to a variety of services, not just cellular phone service and not just voice service. He said that the Zoning Regulations do strongly encourage the use of existing tower facilities rather than creation of new towers. That is why they have brought this application to the Commission utilizing the existing water company tower rather than proposing a new telecommunications tower. In response to questions, Mr. Baldwin said that the FCC has produced standards that take into account the cumulative results of radio frequency emissions. In a worst-case scenario (with all of the antennas at full power and at full strength) the total radio frequency emissions from the Tower Drive facility would only be at approximately 30% of the allowable emissions under the FCC standards. He said that using the far field measuring system, which is more realistic to the actual energy output from the antennas, the total radio frequency emissions would be at 0.139% of the allowable emissions for the FCC standards. He said that all of this information is contained within the report submitted with the application. He emphasized that they have clearly demonstrated that the application complies with the FCC standards and they have complied with the Darien Zoning Regulations.

There being no further comments from the applicant or public, the following motion was made: that the Commission close the Public Hearing regarding this matter. The motion was made by Mr. Bigelow, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

**Continuation of Public Hearing regarding Business Site Plan #83-A/Special Permit, Commerce Bank, 714 Boston Post Road.** Proposal to raze the existing structures on the premises and construct a new bank building with associated drive up aisles and parking and perform related site development activities. The subject properties are located on the south side of Boston Post Road, approximately 550 feet northeast of its intersection with Sedgwick Avenue, and is shown on Tax Assessor's Map #16 as Lots #101 and #103, in the DB-1 Zone. *PUBLIC HEARING OPENED FEBRUARY 24, 2004.*

Director of Planning Jeremy Ginsberg said that he has discussed this matter with the attorney representing the applicant and has still not received any written response. The applicant has not yet received the necessary variances from the Zoning Board of Appeals (ZBA). The Public Hearing is scheduled for March 31, 2004 with the Zoning Board of Appeals. To continue the Public Hearing into April, the Planning & Zoning Commission will need another extension from the applicant. The Commission discussed the option of closing the Public Hearing or continuing it until next Tuesday

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 23, 2004  
PAGE 5

(March 30, 2004) to receive a written response from the applicant or their attorney. If the applicant does not grant an extension to continue the Public Hearing, the Public Hearing will be closed and, the fact that the application does not comply with the Regulations nor have they received the necessary variances from the ZBA, will mean that it will have to be withdrawn or denied.

The Commission decided to continue the Public Hearing on March 30, 2004 at 8:00 p.m.

**Business Site Plan #68-D (2), Stop & Shop Supermarket, 148 Heights Road.** Proposing to install a 24' x 48' greenhouse on a temporary basis. The subject property is located on the north side of Heights Road 300 feet east of its intersection with Edgerton Street, and is shown on Tax Assessor's Map #74 as Lots #8 & #13, DC Zone.

Michael Grisanti said that the application to install a temporary greenhouse structure in the parking area is the same as what had been approved in 2002. He had not been assigned to this store so he was not familiar with how the operation went in 2002, but he said that he knew of no complaints from the Police Department or the Planning & Zoning Department.

Director of Planning Jeremy Ginsberg said that the Planning & Zoning Commission had not received any complaints. He reviewed the comments from the Police Department indicating that their original comments from 2002 were still applicable.

Commission members were pleased that the proposed use is the same as what had previously been approved. There were no comments from the public. The following motion was made: that the Commission close the public hearing regarding this matter. The motion was made by Mr. Conze, seconded by Mr. Kenny and unanimously approved.

Chairman Damanti read the following agenda item:

**Coastal Site Plan Review #190, Flood Damage Prevention Application #203, Bohdan & Lily Kurylko, 35 Beach Drive.** Proposing to construct additions and alterations to the existing residence and perform related site development activities within regulated areas. The subject property is located on the east side of Beach Drive approximately 1570 feet south of its intersection with Boston Post Road (at the terminus of Beach Drive), and is shown on Tax Assessor's Map #52 as Lot #101, R-1/2 Zone.

Director of Planning Jeremy Ginsberg said that the applicants have obtained a Permit from the Environmental Protection Commission because some of the work will be within the regulated area around inland wetlands and they have obtained a variance from the Zoning Board of Appeals because some of the proposed work will be too close to the property lines. He said that the plans were referred to the Connecticut Department of Environmental Protection and they reviewed the plans and responded by saying that they have no comments regarding the proposal.

Patricia Warren, Project Architect, explained that the expected flood elevations on the property are 12 and 13 feet above sea level. Expansion of the house are proposed to match the existing first floor level of the house which is 13.25 feet above sea level. The requirement is that the lowest floor be at least one foot above the expected flood levels. They applied to, and obtained variances from, the Zoning Board of Appeals with respect to the flood requirements for the new floor spaces. As part of that proposal, they indicated that all of the utilities, such as air conditioning units, the heating

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 23, 2004  
PAGE 6

furnace and other mechanical equipment will be placed on a platform at least 14 feet above sea level. There will be no utilities left in the basement or crawlspace. Ms. Warren said that they are adding a blue stone terrace on a sand base so that water will percolate into the ground, rather than being shed into the adjacent waters of Holly Pond. Other changes to the house include modifying the colonial style by adding several gabled dormers. She noted that there is a letter from the Project Engineer indicating that all work will be in compliance with the flood regulations and that changes in the flood areas will be insignificant.

Ms. Warren explained that some of proposed site work involves removing an overgrown hedge and other overgrown foundation plantings. They have received conditional approval from the Environmental Protection Commission for replanting of the area, but since the Kurylko's have not yet lived on the property to see what vegetation survives, they will work with the Environmental Protection Commission to see what plants thrive on the site during this coming growing season and then submit a final, detailed, landscaping plans based on existing conditions and the need to stabilize disturbed areas.

Ms. Warren said that some of the paved travel portion of Beach Drive is actually on the Kurylko private property instead of being within the common right-of-way. People walking dogs and parking cars in the area frequently trespass onto the Kurylko property. To provide a clear demarcation of the edge of the travel portion of the road and to minimize trespassing, the Kurylko's propose to install a low stone wall at the edge of the road. She said that other properties in the vicinity have "enhanced curbs" or low stone walls along the street. This work will involve removal of the hedge and installation of a 24" high stone wall. There are some restrictive covenants that assure property owners across the street the ability to look through the Kurylko property. These restrictive covenants restrict or prevent walls greater than four feet in height without first obtaining permission from the neighboring property owner. The 24" high wall is not subject to the restrictive covenant.

Bruce Gulick said that he lives across the street and he supports everything about the house renovation but he expressed concern about the proposed wall on the edge of the street. He referred to his February 17, 2004 letter to the Commission and the attached sketch. He said that the actual travel portion of the road is approximately 15 feet in width. This is very narrow and the driveways are very restrictive. He said that backing out of his driveway will be made much worse by the installation of a wall because it gives him no ability to overhang the private property and to maneuver his car out of the driveway. He submitted photographs of the flood conditions several years ago showing that much of the street has been flooded. He said that the proposed wall across the street from his driveway would be hit by vehicles backing out of his driveway.

Mr. Gulick said that the seawall along the end of the road and portions of the Kurylko property are crumbling and deteriorated. He said that if the seawall has deteriorated or the drainage facilities are insufficient, then it is the Association's responsibility to maintain those facilities. He said that no parking is permitted at the end of the street because there is not enough room to do so. The Association has not installed no parking signs because that would detract from the attractive views of the area.

Patricia Warren said that during the construction process the Kurylko's will make arrangements so that all construction vehicles will be on the site and will not be parked on the street. She said that

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 23, 2004  
PAGE 7

the proposed stone wall will run along the straight portion of the street and will bend slightly around a small section of the turnaround area. The stone wall will end near a large white pine tree and will not extend down to the seawall.

There were no further questions or comments from the public or the Commission members. The following motion was made: that the Commission close the public hearing regarding this application.

Chairman Damanti read the following agenda item:

**Flood Damage Prevention Application #202, Land Filling & Regrading Application #116, Ralph & Rhonda D'Arinzo, 47 Greenwood Avenue.** Request to allow regrading and previously placed fill to remain within a regulated area. The subject property is situated on the west side of Greenwood Avenue approximately 1,300 feet north of its intersection with Camp Avenue, and is shown on Tax Assessor's Map #8 as Lot #155, and located in an R-1/3 (residential) Zone.

Professional Engineer John Pugliesi explained that the existing house on the property had been constructed recently and some of the regrading for the driveway extended into the Flood Hazard Zone. Before this work was undertaken, the property owner should have obtained a permit from the Planning & Zoning Commission. The house is ready to be sold and the property owner wishes to clear up any potential problem. The property owner is applying to the Planning & Zoning Commission to keep in place the existing filling and regrading that has occurred. The driveway has been elevated no more than 18" at one point within the Flood Hazard area. Mr. Pugliesi showed the plans of the approved driveway configuration as noted on the Building Permit application and the slightly revised version of the existing driveway conditions. He said that approximately 55 cubic yards of fill material was used within the outer edges of the flood plain. He showed photographs to illustrate the actual site conditions. The fill was placed on the site in October or November of 2003. A catch basin was installed in the driveway to collect storm water runoff from the driveway and direct it into a 6 foot diameter dry well that has been installed in the ground. The dry well dissipates the storm water into the ground. Mr. Pugliesi referred to his engineering report and said that there is no impact on flooding conditions due to the changes on the outside fringe of the flood plain. He said that the notices to neighbors had not been properly mailed out for the public hearing that was originally scheduled for February and that the buyers of the house will not take ownership until the owner is able to produce a Certificate of Zoning Compliance. That approval cannot be obtained until this matter is resolved to the Commission's satisfaction or a permit is issued. He asked for an expedited decision by the Commission. Mr. Pugliesi said that they have letters of support from five of the seven neighbors.

Mr. Spain said that the applicant is asking for a retroactive permit to approve what has already occurred. He said that no additional filling, regrading, drainage work or other site modifications are necessary. He asked Mr. D'Arinzo if he had done any other construction work in Darien and, if there were any problems with unauthorized work at those sites. Mr. D'Arinzo said that he had renovated the house next door, at 49 Greenwood Avenue and that he had built a dormer addition without obtaining the necessary permits. He did go to the Zoning Board of Appeals to get that matter straightened out.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 23, 2004  
PAGE 8

There were no comments from the audience or Commission members. The following motion was made: that the Commission close this portion of the public hearing regarding this matter. The motion was made by Mr. Bigelow, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

**Land Filling & Regrading Application #117, Juan & Leslie Colon-Collazo, 11 Old Oak Road.**

Proposing to relocate and revise the driveway and perform related site development activities. The subject property is on the northeast side of Old Oak Road, approximately 300 feet north of its intersection with Leeuwarden Road, and is shown on Tax Assessor's Map #8, as Lot #5, in the R-1/2 Zone.

Mr. Colon apologized that his engineer could not be present to review the details of the application. Mr. Colon said that he has lived at the site for five years. The driveway from the street is a very steep hill. The driveway is on the left side of the house and has approximately a 13% grade. He said that the septic system was on the right hand side of the site but now they have hooked into the sanitary sewers. This gives them the ability to re-route the driveway so that it is longer and therefore, can be less steep. He said that their objective is to reduce the slope of the driveway and to deal with the nearby wetlands. The proposed new driveway will extend from the front right portion of the site and go up toward the garage on the left hand side of the property. The gentle curve will allow a longer distance and, therefore the grade will not be as steep as the current driveway.

Fernando Lobo, the general contractor said that he has had the plan designed so that they will be dealing with the runoff water on the site rather than directing all of the storm water runoff down the new driveway and into the street. He said that the increase in storm water runoff will be approximately 141 cubic feet. They are installing a storm drainage system that will handle approximately 1,400 cubic feet of runoff. This should greatly reduce the amount of runoff from the new driveway compared to the existing driveway. He said that once the new driveway is installed, the old driveway will be closed off and filled in. The new driveway will have better visibility and will have only a 9% grade (instead of the 13% grade of the existing drive.) The new driveway will be asphalted and will have Belgian block curbing.

Kevin Treesh of 9 Old Oak Road said that he was concerned about the proximity of the proposed new driveway to his existing driveway. He submitted a letter signed by 8 nearby residents expressing concern about the storm drainage runoff. He said that he is glad that they are accommodating the increased runoff from the proposed new driveway but, is concerned about the continuing drainage problem in the street and the tree located near the intersection of the proposed driveway and the street.

Mr. Lobo said that in response to comments from the Public Works Department, they will be installing an 8 inch diameter overflow pipe from the dry well. The overflow will prevent the water from being directed toward the street. Mr. Lobo said that the 4" caliber tree will be saved. They will be providing fencing or other protection around the tree during the driveway installation, however, if the storm sewer connection is necessary, it might be required to go through the location of the existing tree. If they are required to install a storm sewer connection, as recommended by the Public Work Department they will need to remove the tree but they will replace it with a new tree.



PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 23, 2004  
PAGE 9

Paul Jaques of 21 Old Oak Road, said that during the construction on the Colon property, the sump pump hose has been discharging water into the driveway. That water runs down the driveway and across Old Oak Road. It forms an icy patch during the winter. He said that even when the sump pump is not running, the area to the right of the existing driveway continues to seep runoff for three or more days after a heavy rainfall. He said a lot of dirt has been eroded from the Colon site and that eroded soil has been deposited in the street and downhill wetlands. He said that there is also a constant ice problem in the winter.

Mr. Colon said that the proposed new driveway will correct the drainage problems that currently exist. The new driveway will include storm water management and storage areas and the old driveway will be filled in. The drainage will probably improve but will certainly not be made any more severe than it is today.

Mr. Colon said that he will work with the Public Works Department to make sure that all of the Town's concerns are addressed.

There being no further questions or comments from Commission members or the public, the following motion was made: that the Commission close the public hearing regarding this matter, and since there are no further agenda items, that the Commission close the meeting. The motion was made by Mr. Spain, seconded by Mr. Kenny. The motion was unanimously approved. The meeting was closed at 10:40 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning